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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/537,218

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Richard Pustelniak

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10/31/2008

BACHMAN & LAPOINTE, P.C. (UTC)

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SUITE 1201

NEW HAVEN, CT 06510-2802

EXAMINER

COLON SANTANA, EDUARDO

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

10/31/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |  |  |  |
|------------------------------|--|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/537,218     | <b>Applicant(s)</b><br>PUSTELNIAK, RICHARD |  |
|                              | <b>Examiner</b><br>EDUARDO COLON SANTANA | <b>Art Unit</b><br>2837                    |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)                |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application      |
| Paper No(s)/Mail Date _____  | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> . |

**DETAILED ACTION**

1. Applicant's amendments filed on 9/22/2008 have been received and entered in the case.
2. Applicant's amendments with respect to the claims have been fully considered but are not persuasive.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable and obvious over Picado U.S. Patent No. 5,149,921 in view of Cottle et al. U.S. Patent No. 5,900,598.

Referring to claims 1-8, Picado discloses an infrared intrusion detection system for elevator doors (see all figures and respective portions of the specification). Picado further depicts from figures 1

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and 2, a plurality of linearly disposed emitters (43) disposed vertically upon a leading edge of a door (40), each adapted to be activated to emit an energy beam; and a plurality of linearly disposed receivers (45) disposed vertically upon a leading edge of a door (39) each adapted to receive one of the energy beam from one of the plurality of emitters (see Col. 7, lines 34-62). Furthermore, Picado depicts in figures 7, 9, 10, 11 and 14, various schematic and block diagrams in particular figure 11, showing that each plurality of receiver (330, 333, 335, etc.) is singularly activated prior to receiving the energy beam from an emitter (328) which is also singularly activated to emit the energy beam in accordance with a scan sequence (see figures 4 and 8). Moreover, when each activated receiver has receives the energy beam, it deactivates and a next one of the receivers in the sequence is activates (see Col. 13, line 63 to Col. 14, line 9). However, Picado depicts in figure 6 the use of a single controller (100) for controlling the emitter and receiver array respectively. Nonetheless, Cottle et al. discloses an optical obstructing sensing system analogous to Picado (see figures 1a-1c) wherein in one embodiment two separate controllers (32 and 39) (see figure 4) are used to control the emitter array and the receiver array (see Col. 7, line 26 to Col. 8, line 11). Since Picado and Cottle are in the same field of endeavor, the purpose disclosed by Cottle would have been recognized in the pertinent art of Picado. It would have been obvious to one of ordinary skill in the art at the time of the invention to use more than one controller as taught by Cottle et al.

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within the teaching of Picado for the purpose/advantages that by having one controller control the emitter array and one controller controlling the receiver array, each independent controller can operate the synchronization more precisely with less time to process the incoming data respectively and/or if use as a functional redundancy mode, one controller can supply continuous operation of the synchronization if the other has a delay or incoming error.

As to claim 9, Picado depicts from figures 11-13 that each receiver waits for a predetermined period of time (B) for receiving the energy beam (see Col. 13, line 65 to Col. 14, line 4).

Referring to claim 10, the receivers identify a beam break (see Col. 4, lines 30-33; Col. 7, lines 48-56).

As to claims 11-13, 15 and 16, the method steps are obvious in the product structure of claims 1-10 above.

Referring to claim 14, Picado depicts from figure 6 an electrical schematic view of a microcontroller, which runs the software that permits the synchronization of the emitters and receivers (see Col. 4, lines 22-33). Cottle et al. as address in claim 1 above, teaches the obviousness of using two microcontrollers instead of one.

#### ***Response to Arguments***

4. Applicant's amendments and/or arguments with regards to the claims have been fully considered but are moot in view of the new ground(s) of rejection above.

**Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Colon-Santana whose telephone number is (571)272-2060. The examiner can normally be reached on Monday-Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on (571) 272-2800 x.37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eduardo Colon-Santana/  
Patent Examiner, AU 2837

/ECS/  
October 24, 2008

/Walter Benson/  
Supervisory Patent Examiner, Art Unit 2837